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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Lee Kamensky

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EXAMINER

LIN, JASON K

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/004,223	Applicant(s) KAMENTSKY ET AL.	
	Examiner JASON K. LIN	Art Unit 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
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DETAILED ACTION

1. This office action is responsive to application No. 10/004,223 filed on 10/09/2008.

Claims 1-5 and 7-16 are pending and have been examined.

Response to Arguments

2. Applicant's arguments filed 10/09/2008 have been fully considered but they are not persuasive.

Applicant's assert on P.5: lines 3-16 that in Kamisaka, "Because a user must initiate reception of newspaper data by first subscribing to the newspaper and obtaining an encryption key, the system of Kamisaka is inherently a content 'pull' system. Kamisaka does not teach or suggest 'scheduling transmission of bulk data content push to a plurality of end node devices' as claimed in Claim 1."

In response, the examiner appreciates the points made by the applicant, but respectfully disagrees. In Kamisaka, the user does indeed have to initially subscribe, however this subscription only occurs once and it only registers their home terminal in the provider database. It is not a direct request for provision of content that is demanded of in a pull system. Instead after the user has subscribed, the provider sends down the data at will to the home terminal and does not require the user to request for content before it is sent. A pull system would require the user to request for content and then the provider would then send content down to the user. There must always be a request by the subscriber prior to sending of content by the provider in order for it to be a true pull system. Therefore Kamisaka, is a push system since it does not require the user to request for content before pushing data down to the users.

On P.5: lines 18-21, applicant's assert state "This allows a particular promotion to be transmitted to a promotion group that includes diverse types of network devices that may be functionally different (e.g., television set top box and Internet video phones)." Although that may be the intended usage of the invention it is not present in the claims of the present invention, therefore no patentable weight will be given to that particular statement.

On P.5: lines 22-25 applicant asserts that "Nowhere does Kamisaka disclose a subset of home terminals or subscribers." The examiner respectfully disagrees. Kamisaka is not just referring to just one individual terminal ID. It just merely states that the control data part stores the individual terminal ID, as in the terminal ID of a terminal is stored in the control data part. As can be seen in, but not solely limited to Col 13: lines 21-26 this is a system with multiple user terminals, and each of the home terminals receives the data if their terminal ID is contained in the control data portion. A control frame contains individual terminal IDs of each user terminal for which data was intended and does not necessarily have to contain solely a single individual terminal ID as asserted by applicants. Therefore, Kamisaka does in fact teach "identifying a subset of end node devices."

On P.5: line 26 – P.6: line 5 applicant asserts that "Kamisaka does not teach or suggest 'associating the subset of end nod devices with a subset of the bulk data content' as claimed in Claim 1." The examiner appreciates the points made by the applicant, but respectfully disagrees. The applicant has not specifically clarified or narrowed the limitation of "associating" and therefore, the examiner is able to give it the

broadest reasonable interpretation. The data is indeed intended for a subset of end node devices as reasoned in the paragraph above. This data, is only intended for those in which the individual terminal IDs have been registered in the control data portion. Even though the data and the terminal IDs may be in a different data frame, they are part of the same payload that will be sent to the end user terminals, Fig.4A & 4B. This is all sent to the terminals and according to the terminal ID in the control data portion, the user terminals will or will not receive and store the information. Even though the terminal ID and the data is not stored in the same section of the payload, they are part of the same payload, and the terminal ID still controls what terminals have access to the content. Therefore, since the applicant has not explicitly claimed that they must reside in the same section of the payload as reasoned by the applicant that because the terminal ID and the command are both in the control frame and are therefore associated with each other, "associating" within broadest reasonable interpretation can be interpreted and not just limited to merely having the terminal ID and the data in the same payload where the terminal ID controls what terminals will have access to the data. Therefore, since there is indeed such a connection between the two aforementioned items, they are in fact associated, and teaches the claimed limitation "associating the subset of end node devices with a subset of the bulk data content."

On P.6: lines 6-14 applicant's assert that "Kamisaka receives *all* the newspaper data at *every* terminal. Kamisaka does not teach or suggest 'attempting to selectively receive the identified subset of bulk data content push at the subset of the end node devices during the scheduled transmission' as claimed in Claim 1. The examiner

respectfully disagrees. Although data may pass through the receiver via the reception buffer, it does not in fact “receive” all the content. Data is just buffered in the reception buffer, but it is not “received” until it is actually registered and recorded in disk drive 517-
Fig.7. Receiving defined by Merriam Webster is “to come into possession of,” the receiver is not in actual possession of the received items until it has actually been recorded into the disk drive, described in Kamisaka Col 9: lines 44-48. Therefore, only data that is recorded on the disk drive is actually received by the reception terminal, while data not intended for the reception terminal does not, therefore content is selectively received.

The claimed limitations are taught by Kamisaka, and the examiner maintains the ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1 and 11-14** are rejected under 35 U.S.C. 102(b) as being anticipated by Kamisaka et al. (US 5,708,960).

Consider **claim 1**, Kamisaka teaches a method for content synchronization for bulk data transfer in a multimedia network (Col 1: lines 57-59, Col 7: line 22 – Col 8: line 3; Col 13: lines 48-55), comprising:

scheduling transmission of bulk data content push to a plurality of end node devices (Col 2: lines 18-32, Col 5: line 46 - Col 6: line 7 teaches bulk data content. Col 13: lines 48-64 teaches the transmission schedule of data scheduled to be broadcast), the schedule including identifying a subset of end node devices (Col 7: lines 4-11, Col 9: lines 17-24, Col 13: lines 21-26 teaches control data part of the control frame shown in Fig.4A contains individual terminal IDs for which the data is intended for);

associating the subset of end node devices with a subset of the bulk data content (Col 12: lines 29-33; Col 7: lines 4-11, Col 9: lines 17-24, Col 13: lines 21-26);

notifying each end node device of the scheduled bulk data transmission on an individual basis, each such individual notification including sending information over the network indicating an expected end time for the scheduled transmission, the notification occurring before the bulk data transmission begins (Col 13: line 48 - Col 14: line 2 teaches notification of the scheduled transmission indicating an expected end time of the transmission are sent and registered in home terminal 5-Fig.1 beforehand. Col 7: lines 4-11, Col 9: lines 17-48, Col 12: lines 29-33, Col 13: lines 21-26 teaches that only data pertaining to the pertinent terminal in which the terminal ID is present in the control data part will the commands and data from the frame be registered/executed);

transmitting the bulk data content push via broadcast prior to the expected end time (Col 1: lines 57-59, Col 7: line 22 - Col 8: line 3 teaches the

transmission of the content. Col 13: lines 48-55 teaches what the receiver does the data is not received at the expected end time);

scanning the bulk data content push to identify the subset of bulk data content push indicated by the notification (Col 2: lines 33-41, Col 12: lines 29-33 teaches that control information is stored on the receiver specifying what information items are to be registered as reception. Col 8: line 67 – Col 9: line 1, Col 9: lines 44-47 teaches reception of the content. *Therefore when receiving content, the receiver will have to identify the content being transmitted and see what information items are to be received and stored*);

attempting to selectively receive the identified subset of bulk data content push at the subset of end node devices during the scheduled transmission, the selective receiving based on the notification information received by each end node device (Col 2: lines 33-41, Col 12: lines 29-33 teaches that control information is stored on the receiver specifying what information items are to be registered as reception. Col 8: line 67 – Col 9: line 1, Col 9: lines 44-47 teaches reception of the content. *Therefore when receiving content, the receiver will have to identify the content being transmitted and see what information items are to be received and stored*);

at the expected end time for the scheduled transmission, each end node device determining if the bulk data content push was received as expected (Col 13: line 47 – Col 14: line 2);

if not received as expected, sending a failure indication (Col 13: line 47 – Col 14: line 2);

if received as expected, activating the content (Col 9: line 44 – Col 10: line 17).

Consider **claim 11**, Kamisaka teaches wherein the content is a plurality of promotions (Col 5: lines 35-37, 53-54, Col 10: lines 34-37).

Consider **claim 12**, Kamisaka teaches wherein the scheduled transmissions are scheduled multicast transmissions (Col 1: lines 57-59, Col 3: lines 4-10, Col 7: line 22 – Col 8: line 3; Col 13: lines 49-62).

Consider **claim 13**, Kamisaka teaches wherein the scheduled transmissions are scheduled broadcast transmissions (Col 1: lines 57-59, Col 3: lines 4-10, Col 7: line 22 – Col 8: line 3; Col 13: lines 49-62).

Consider **claim 14**, Kamisaka teaches wherein the content is transmitted multiple times during the scheduled transmissions to ensure that the plurality of end node devices receive the subset of content (Col 13: lines 29-47).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 2 and 3** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamisaka et al. (US 5,708,960) in view of Gupta (US 6,577,599).

Consider **claim 2**, Kamisaka teaches retransmission of bulk data content (Col 3: lines 10-13), but do not explicitly teach retransmitting the bulk content to the failing network device via a unicast.

In an analogous art Gupta teaches, retransmitting the bulk content (missed data packets) to the failing network device via a unicast (Gupta – Step 520 in Fig.5, Col 7: lines 35-41 and Col 12: lines 37-51).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Kamisaka's system to include retransmitting the bulk content (missed data packets) to the failing network device via a unicast, as taught by Gupta, for the advantage of preventing network congestion by individually retransmitting the missed data packets to the appropriate receivers.

Consider **claim 3**, Kamisaka and Gupta teaches wherein the failure indication indicates a subset of unreceived content and, transmitting only the indicated subset (Kamisaka - Col 13: line 47 - Col 14: line 2).

7. **Claims 4 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamisaka et al. (US 5,708,960) in view of McNeil (US 6,421,706).

Consider **claim 4**, Kamisaka do not explicitly teach wherein the step of transmitting the bulk content additionally comprising using a unicast UDP protocol.

In an analogous art McNeil teaches, wherein the step of transmitting the bulk content additionally comprising using a unicast UDP protocol (Col 7: lines 62-66).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Kamisaka's system to include unicast UDP protocol data transmission, as taught by McNeil, for the advantage of providing an alternative means of data transmission in cases where an endpoint device fails to receive low bit rate video and audio data (McNeil - Col 7: lines 54-66).

Consider **claim 8**, Kamisaka and McNeil teaches wherein the step of selectively receiving content comprises:

listening to the scheduled transmission for the subset of content on the destination port address at the data transmission times; selecting the subset of content during the scheduled transmissions; and receiving the subset of content (Kamisaka - Col 2: lines 33-41, Col 12: lines 29-33 teaches that control information is stored on the receiver specifying what information items are to be

registered as reception. Col 8: line 67 – Col 9: line 1, Col 9: lines 44-47 teaches reception of the content. *Therefore when receiving content, the receiver will have to identify the content being transmitted and see what information items are to be received and stored).*

8. **Claims 5 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamisaka et al. (US 5,708,960) in view of Miura et al. (US 6,483,848).

Consider **claim 5**, Kamisaka does not explicitly teach wherein the step of notifying the end node devices includes an expected start time and duration information.

In an analogous art Miura teaches, wherein the step of notifying the end node devices includes an expected start time and duration information (schedule date and time, reception duration; Col 22: lines 36-66, Col 23: line 23 - Col 24: line 3).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Kamisaka's system to include the step of notifying the end node devices includes an expected start time and duration information, as taught by Miura, for the advantage of allowing the receiver to know when to supply power to its receiving portion in order to receive the transmitted data (Miura - Col 22: line 62 - Col 23: line 3) and when to end supply of power in order to conserve energy consumption of the receiver.

Consider **claim 7**, Kamisaka teaches wherein the step of notifying the plurality of end node devices includes delivering content control data comprising destination port addresses (Col 7: lines 4-11, Col 9: lines 17-24, Col 13: lines 21-26 teaches control data part of the control frame shown in Fig.4A contains individual terminal IDs for which the data is intended for), but does not explicitly teach data transmission times for the subset of content.

In an analogous art Miura teaches, data transmission times for the subset of content (schedule date and time, reception duration; Col 22: lines 36-66, Col 23: line 23 - Col 24: line 3).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Kamisaka's system to include data transmission times for the subset of content, as taught by Miura, for the advantage of allowing the receiver to know when to supply power to its receiving portion in order to receive the transmitted data (Miura - Col 22: line 62 - Col 23: line 3) and when to end supply of power in order to conserve energy consumption of the receiver.

9. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamisaka et al. (US 5,708,960), in view of McNeil (US 6,421,706), and further in view of Kadansky et al. (US 6,507,562).

Consider **claim 9**, Kamisaka and McNeil do not explicitly teach wherein the destination port addresses are multicast port addresses.

In an analogous art Kadansky teaches, wherein the destination port addresses are multicast port addresses (Col 37: lines 10-21).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify the system of Kamisaka and McNeil to include wherein the destination port addresses are multicast port addresses, as taught by Kadansky, for the advantage of providing a structure for easy distribution of content without further congesting the network, allowing for multiple devices to receive content at once alleviating unicast loads which would be taxing to the provider and the network.

10. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamisaka et al. (US 5,708,960), in view of McNeil (US 6,421,706), and further in view of Wada (US 2003/0007481).

Consider **claim 10**, Kamisaka does not explicitly teach wherein the destination port addresses are broadcast port addresses.

In an analogous art Wada teaches, wherein the destination port addresses are broadcast port addresses (Paragraph 0164: lines 1-14).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Kamisaka's system to include wherein the destination port addresses are broadcast port addresses, as taught by Wada, for the advantage of transmitting data to all the devices attached to a network (Wada - Paragraph 0164: lines 12-14).

11. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamisaka et al. (US 5,708,960) in view of Gupta (US 6,577,599) and further in view of Kadansky et al. (US 6,507,562).

Consider **claim 15**, Kamisaka teaches sending a failure notification (Col 13: lines 51-55), but does not explicitly teach wherein a failure indication is sent again if the retransmission fails.

In an analogous art Kadansky teaches, wherein a failure indication is sent again if the retransmission fails (Col 5: lines 54-64).

Therefore, it would have been obvious to a person of ordinary skill in the art to modify the system of Kamisaka and Gupta to include wherein a failure indication is sent again if the retransmission fails, as taught by Kadansky, for the advantage of providing a more reliable and robust system in which the client is more guaranteed to receive the provided content, creating a more dependable system.

12. **Claim 16** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamisaka et al. (US 5,708,960) in view of Miura et al. (US 6,483,848) and in further view of Dillon et al. (US 2003/0206554).

Consider **claim 16**, Kamisaka and Miura do not explicitly teach wherein a module ID is included in the failure notification.

In an analogous art Dillon teaches, wherein a module ID (unique package identifiers) is included in the failure notification (Paragraph 0135: lines 5-12)

Therefore, it would have been obvious to a person of ordinary skill in the art to modify Kamisaka's and Miura's system to include a module ID in the failure notification, as taught by Dillon, for the advantage of identifying the data content being requested for retransmission.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON K. LIN whose telephone number is (571)270-1446. The examiner can normally be reached on Mon-Fri, 9:00AM-6:00PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on (571)272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Lin/
Examiner, Art Unit: 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425